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Release Of Assets From Seizure In Hungary

By Dr. Zoltán Kovács

In this article, we address the issue as to how an owner, such as a foreign company, may claim back his assets located in Hungary following the seizure of such assets within the frame of an enforcement proceeding commenced against an entity possessing such assets based on an agreement concluded by and between the owner (foreign company) and such entity. This issue may have relevance, for example, in the context of an agreement entered into between a foreign company producing certain products, e.g., car parts, and a Hungarian company that is actually under the obligation to store and/or process and/or assemble such products/car parts in Hungary.

Pursuant to the Act no III of 1952 on the Code of Civil Procedure (the "Code of Civil Procedure"), the owner of a seized asset - which asset has, prior to seizure, been possessed by an entity other than the owner - may bring a motion to release the relevant asset from seizure ("Motion") against the entity commencing the enforcement procedure. If the relevant asset has been seized based on the enforcement request of several entities, the Motion is to be lodged with the competent court against all such entities. It is worth noting that the decision made by the court on the merits of the Motion has no impact of any kind upon the relationship between the owner of and the entity possessing the asset prior to seizure, i.e., they may enforce their respective claims against each other in a separate judicial procedure.

If the court sustains the owner's Motion, the seized asset is automatically released by the court from seizure. If the relevant asset has been sold prior to the court sustaining the Motion, an amount equal to the purchase price of the asset is to be paid to the entity filing the Motion. Under Hungarian law, the sale of assets during enforcement procedure is to take place at an auction, and, pursuant to Article 120 (1) of the Act no IV of 1959 on the Civil Code, a person or entity purchasing in good faith an asset at an auction becomes the owner of such asset regardless of who the previous owner of the asset was, i.e., the previous owner ceases to be the owner of the relevant asset upon the bidder acquiring such asset at the auction.

Furthermore, according to Article 376 (1) of the Code of Civil Procedure, the court is required to immediately inform the bailiff of a Motion having a suspending effect. According to Article 115 (1) of the Act no LIII on Judicial Enforcement ("Enforcement Act"), the bailiff is required to take immediate measures for the sale of the seized asset after 30 days following seizure. If a Motion is lodged within eight (8) days from the date of seizure, the asset affected by such Motion may only be sold following that a final and binding judicial decision rejecting the Motion has been delivered on the merits of the Motion. Thus, a Motion submitted within eight (8) days from the date of seizure has a suspending effect upon the sale of the relevant asset. If, however, the Motion is lodged after 8 days from the date of seizure, then it can occur that the asset is sold prior to the court deciding on the merits of the Motion.

As stated above, if the court sustains the Motion after the asset has been sold, an amount equal to the purchase price of the asset is to be allotted to the entity filing the Motion.

Pursuant to Article 86 (2) of the Enforcement Act, assets that are in the possession or custody of the debtor cannot be seized in the event that based on a sign located on the relevant asset or another circumstance, it can be established without any doubt that the asset is owned by an entity other than the debtor. If the entity possessing the asset does not inform the owner of the asset of the commencement of the enforcement procedure and the owner does not become aware of the enforcement procedure (and, as a consequence, does not file a Motion) and the relevant asset is seized (given the lack of any sign or circumstance based on which it could be established without any doubt that the debtor is not the owner of the relevant asset) and then sold at an auction, the original owner of the asset can only sue such entity and claim the damages suffered.

The contents of this article are intended to provide only a general overview of the subject matter. Specialist advice should be sought for specific matters. Queries relating to this article should be addressed to the authors at:

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